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THE FISHERY QUESTION:

ITS IMPERIAL IMPORTANCE.

BY

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1. *President Cleveland's Message to Congress, December 9, 1885.* Congressional Record, Washington, U.S.
2. *Papers respecting the Fishery Question.* Canada Sessional Papers, No. 101. Ottawa. 1885.
3. *Report of the Department of Marine and Fisheries.* Canada Sessional Papers, No. 9. Ottawa. 1885.
4. *Trade and Navigation Returns.* Canada Sessional Papers, No. 2. Ottawa. 1885.
5. *Report on the Fishery Articles of Treaties between Great Britain and the United States.* By W. F. WHITAKER, Commissioner of Fisheries. Ottawa. 1870.
6. *Record of the Proceedings of the Halifax Fisheries Commission.* English Commons Papers, 1877.
7. *Proceedings of the Royal Colonial Institute, Vols. IV. and IX.* London.

THE fisheries of British North America have been the subject of international controversies ever since the commencement of the eighteenth century. France was the first among European Powers to avail herself of the riches to be found in the waters which wash the eastern shores of the noble domain which she once possessed on the North American continent. From the earliest days of which we have any accurate historical record Basque and Breton fishermen have toiled on the prolific banks of Newfoundland. It was in the days of Queen Anne that the

ambition of France received the first great blow in America, and England obtained control of the most valuable fisheries of the New World. It has been often questioned whether England, after all, received any substantial advantages from the victories which, during the war of the Spanish Succession, humbled the pride of the Grand King, and gave to Marlborough an eternal fame. In Southey's well-known poem little Peterkin but voiced the public sentiment of the century when, after listening to old Kaspar's account of Blenheim, he sagely asked, "But what good came of it at last?" We all know that the issue was the Treaty of Utrecht—that much-abused emanation of the diplomatic intrigues of Harley and St. John. Professor Seeley, however, in his very suggestive work on the "Expansion of England," does not place himself among those historical writers who have nothing but censure for the conditions of that famous instrument. In his opinion this treaty marks one of the important epochs in the history of England's greatness. He looks upon the war as "in reality the most business-like of all the contests in which England ever engaged." Much is certainly to be said in support of his argument, that the successful accomplishment of the designs of Louis Quatorze on the crown of Spain would have closed "almost the whole New World to the English and Dutch, and thrown it open to the countrymen of "Colbert, who were at that moment exploring and settling the Mississippi." By the signing of the Treaty of Utrecht, however, the ambitious plans of the French King were foiled, and England entered on a new career of colonial and maritime greatness.

Englishmen in these days will hardly care to dwell on that part of the treaty which induced England to enter, as a competitor with Spain, on the infamous slave trade. All of us, however, will recognize the value of the provisions which gave England the undisputed possession of Newfoundland as well as of Nova Scotia, then known by the historic name of Acadie. Here was the commencement of that new Dominion which in later times was to stretch across the northern half of the continent, and in a measure compensate England for the loss of those colonies which in the days of Queen Anne were struggling to establish themselves on the Atlantic coast from Massachusetts to the Carolinas. Here for the first time the fishery question makes its appearance in history. By the Treaty of Utrecht France gave up Newfoundland to Great Britain, but at the same time received certain privileges on the coast as essential to the prosecution of the fisheries which she valued so highly. As a base of operations for this great industry, she retained possession of Ile Royale, now known as Cape Breton, and of the islets of St. Pierre and Méquelon, off the southern coast of the Prima Vista

of the early navigators. Half a century passed, and the battle between France and England for the supremacy in America was continued on the shores of the St. Lawrence and of Lake Champlain. At last, Louisbourg, Quebec, Montreal, and less important French posts fell before the victorious soldiers of England, and when the Treaty of Paris was signed in 1763, of all the possessions France once owned on the St. Lawrence and by the sea, there remained to her only two rocky islets off the coast of Newfoundland. To St. Pierre and Miquelon, insignificant as they look on the map, she has always clung with great pertinacity whenever it has been a question of a new treaty between herself and Great Britain. The privileges she obtained by the Treaty of Utrecht, of participating in the fisheries of Newfoundland, and of frequenting a limited range of coast for purposes solely connected with the prosecution of those fisheries, have remained in force up to the present time, with a few modifications necessary to preserve peace and order on the shores of the island, where a small British population has grown up in the course of years. St. Pierre is now a place possessing many of the characteristics of a port on the Breton shores, and is the headquarters of a naval squadron for the protection of the large fleet of French fishing vessels which frequent the waters of Newfoundland from spring to autumn. This little island has all the essential features of a French colony—a commandant, a staff of minor officials, and several *gens d'armes*. Its existence for nearly two centuries is very clear evidence of the importance France still attaches to the prosecution of the fisheries in North America.

Disputes have often arisen between British and French fishermen as the consequence of the concessions made originally by this famous Treaty of Utrecht. The Government of Newfoundland has deluged the Colonial Office with dispatches on the subject, and several Commissions have been appointed to prevent disputes. If Newfoundland were a portion of the Dominion of Canada, or was able to offer any large inducements to immigration, we should probably hear more of the discontent that crops up from time to time in the island, and the matter might assume a more serious aspect; but as it is, the whole question has never received any attention outside the Foreign and Colonial Offices, and a new Convention is quietly arranged, as was the case a few weeks ago, for the purpose of tiding over difficulties as they arise.

It is not with the fishery difficulty between France and Newfoundland that we purpose to deal in this paper, but with a much larger question affecting the interests of the most important dependency of the empire, as well as those of the great island itself which still stands sullenly apart from the confederated provinces. This question has arisen

during the hundred years since the United States became independent of Great Britain. As long as the old colonies remained in the British Empire they had a right to participate in the valuable fisheries found on the coasts of Nova Scotia and other parts of the British North American dominions. Until the War of Independence, and indeed for many years afterwards, the fisheries off the Atlantic coast of the United States were valuable, and sufficiently engrossed the enterprise and industry of American fishermen, and there was no occasion to go beyond their own territorial limits; but as the population of New England increased, and the American fisheries became less prolific, it became necessary to seek fresh sea pastures in order to supply the urgent demands of commerce. Then the people of the American coast, especially of Maine and Massachusetts, looked longingly to the rich fisheries owned by the countries which remained faithful to the Empire, and have ever since exercised their ingenuity to obtain access to British American waters.

The history of the efforts made by the United States to obtain the liberty of fishing on the coasts and within the bays over which Great Britain claims, as an incident of her sovereignty, full territorial jurisdiction, affords abundant evidence of the value their people have heretofore attached to the fisheries of Canada and Newfoundland. All that diplomatic or legal ingenuity could devise in the shape of argument has been brought forward to influence Great Britain to concede the use of these fisheries to the fishermen of New England, as long and on as easy terms as possible. As we shall see in the course of this paper, Great Britain has in this, as in other negotiations affecting the relations between herself and the United States, acted in a spirit of compromise and conciliation which at times, in the opinion of some Canadians, seemed likely to lessen the value of the fisheries, and consequently jeopardize the interests of the British people who own this great source of national wealth and greatness. But the statesmen of Canada as well as of Great Britain have invariably been ready to take into consideration the importance of having the most amicable understanding on all disputed points with a people so nearly allied to them by language and interest, and have made concessions to the United States which perhaps some of their citizens have not always fully appreciated at their full value.

When Great Britain formally acknowledged the independence of the Thirteen Colonies, and it became necessary to consider the question of the fisheries, the United States obtained "the liberty" to take fish on the coasts of Newfoundland, but not to dry or cure the same on that island. They were also allowed

"the liberty" of taking and curing fish on the coasts and in the bays and creeks of all British possessions in North America as long as the same remained unsettled. Their right "to enjoy unmolested the fisheries on the banks of Newfoundland and at all other places on the deep sea where the inhabitants of both countries used at any time previously to fish," was explicitly acknowledged in the third article of the same treaty, which was signed at Paris on September 3, 1783. During the years which elapsed between the signing of this treaty and the breaking out of the war of 1812, the British population increased along the shores of the bays and creeks of Nova Scotia and New Brunswick, and their interest in the fisheries, enjoyed in common with the Americans, became very much greater. When the war came to a close the question of the fisheries was revived, and Great Britain at once, in accordance with the rules of international law, considered that any "liberty" formerly extended to the United States had naturally terminated, and refused, in obedience to the demands of the British population now largely engaged in the fisheries, to grant to the Americans "gratuitously" the privileges they formerly enjoyed "of fishing within the limits of British territory or of using the shores of the British territories for purposes connected with the fisheries." At the same time they very properly refused to consider the remarkable claim set up by the United States Government, of "an immemorial and prescriptive right to the fisheries." It is hardly necessary to observe that any rights enjoyed by the people of the old colonies in common with other British subjects ceased in those countries or waters which were still British possessions when the former became independent. When no understanding could be reached during the negotiations which ended with the Treaty of Ghent in 1814, on account of the untenable claims set up by the American Commissioner, Great Britain instructed the officers of her fleet stationed in British American waters not to interfere with American vessels on the Newfoundland banks, or in the Gulf of St. Lawrence, or on the high seas, but to exclude them from the harbours, bays, and creeks of all His Majesty's possessions. Several American vessels were subsequently captured for trespassing in British waters, and the Government of the United States was at last forced to come to an amicable arrangement on a question which might at any moment lead to a serious international difficulty. The issue was the Convention signed by England and the United States on October 20, 1818, in which the rights of these two nations were clearly defined. By the first article of that treaty it was agreed that the inhabitants of the United States should have for ever, in common with British subjects, the liberty to take and cure

fish on certain parts of Newfoundland and Labrador, and on the coasts of the Magdalen Islands, under a few restrictions, on which it is not necessary to dwell, since no serious differences have arisen on the subject. In the same article the United States "renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish *on or within three marine miles of any of the coasts, bays, creeks, or harbours*" of the British dominions in America not included within the limits just mentioned. At the same time American fishermen were to be permitted "to enter such bays and harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, of obtaining water, and for no other purpose whatever."

Now, the whole controversy in past years between Great Britain (representing the Dominion of Canada and Newfoundland) and the United States has turned upon the true effect of the renunciation on the part of the latter "of any liberty heretofore enjoyed to take, dry, and cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours" of British North America. In order to understand the importance of this point—which is in effect the fishery question constantly cropping up when all temporary arrangements like the Washington Treaty of 1871 cease between Canada and her neighbours—it is necessary to study the natural configuration of the eastern or maritime provinces of British North America. Looking at the map, we find first of all the large island of Newfoundland standing like a sentinel at the approaches of the Gulf of St. Lawrence. The French and Americans have free access, as a matter of right, to the Grand and other banks, and certain privileges of catching and curing fish on the coasts. American fishermen frequent the Grand Banks and come at times into the bays and harbours for repairs and bait; and the only important question that has arisen with respect to Newfoundland is the value of these privileges within her territorial limits. Leaving Newfoundland, we come to the fishing-grounds much frequented by the Americans for the mackerel, herring, and other fisheries. We see the fine island of Cape Breton, separated from the mainland of Nova Scotia by a narrow strait known as the Gut of Canseau, and noted for its wild, picturesque beauty. This passage, whose average breadth does not exceed two and a half miles, takes us into the Straits of Northumberland, which lie between Nova Scotia and the fertile Prince Edward Island. We are now in the Gulf of St. Lawrence, which receives the waters of the noble artery of the commerce of the provinces of Quebec and Ontario, and of the rich country which is known as the Great West. In the middle of this gulf are the Magdalen

Islands, the home of venturesome Canadian fishermen. The coast of New Brunswick, which forms the western boundary of the gulf, is indented by several bays, one of which—the Bay des Chaleurs, so named by the French navigators in the early days of New France—is one of the most picturesque estuaries and the most prolific fishing-grounds of the continent. In this bay, and on the coasts of Cape Breton and Prince Edward Island, the American fishermen during this century have dragged up fish to an enormous value. But leaving the Gulf of St. Lawrence and passing around the southern coast of Nova Scotia, we come to the Bay of Fundy, which is a great arm of the sea, bounded on the north by the province of New Brunswick, and having a small portion of the United States territory opposite to its southern headland. This bay is celebrated for its tides, which rise to the height of seventy feet, and rush into the bays and harbours that indent the coasts with remarkable velocity. One of the headlands (Blomidon) has been immortalized by the poet Longfellow in his exquisite poem on a sad episode in the history of the province of Nova Scotia, which forms the southern boundary of the bay. As in the days of the Acadian farmers of Grand Pré,

Pleasantly gleams in the soft sweet air the
Basin of Minas.

All the valuable fish to be caught in North America frequent this arm of the sea and the waters of the Gulf of St. Lawrence. These are the great fishing-grounds so long envied by the fishermen of New England.

Now, it is admitted that the largest quantities of fish are found within three marine miles from the coasts and bays of the maritime provinces. It is clearly shown by all authorities on international law, judges who have interpreted that law, or statesmen who have negotiated treaties, that every nation has the right of exclusive dominion and jurisdiction over those portions of its adjacent waters which are included by “promontories” or headlands within its territories. Accordingly, Great Britain has always maintained that the three marine miles from the coasts, bays, and creeks of her possessions must be measured from the headlands or entrance of such classes of indents. But this correct assertion of the territorial and maritime jurisdiction of the Dominion of Canada, as a section of the British Empire, is extremely unpalatable to the United States, since it shuts them out practically from the fishing-grounds to which they attach the most importance—from the Bay of Chaleurs, for instance, and other parts of the Gulf of St. Lawrence, where the most important inshore fisheries exist. In their anxiety, then to

get free access to these *private* fisheries of Canada, they have heretofore raised the issue, that the line of demarcation between exclusive and common water should not be measured from the headlands of bays, but should follow the shores of those indents as if they were sinuosities of the coast. If their contention were founded on any sound principles of international law, or sustained by any generally admitted authority, then it would be difficult to exclude them from the most important fishing-grounds of America. We do not propose to go at any length into this question, inasmuch as it is only necessary to refer our readers to all the recognized authorities on the subject to prove that the issue raised by the Americans is entirely untenable. Their own jurists and legal authorities have disposed of the question in a sense favourable to the British interests involved in the matter. That well-known authority Wheaton states the rule very clearly : "The maritime territory of every State extends to the ports, harbours, bays, mouth of rivers, and adjacent parts of the sea, inclosed by headlands belonging to the same State." Chancellor Kent, an equally high authority, admits that bays like Delaware Bay, which may be compared in many respects to Bay des Chaleurs, is wholly within the territorial jurisdiction of the United States, and that this jurisdiction extends for three miles seaward from its headlands, Capes May and Henlopen. The same rule applies to Chesapeake and Massachusetts Bays, which are also inlets of large size. The eminent lawyer and statesman, Daniel Webster, admitted, when the question came under his notice in 1852, that the claim of England to draw a line from headland to headland, and to capture all American fishermen who might follow their pursuits inside of that line, was well founded, and that "it was undoubtedly an oversight in the Convention of 1818 to make so large a concession to England ! Indeed, if we look at the first article of this Convention, we find that the United States "hereby renounce for ever *any liberty heretofore enjoyed or claimed*" by their people in British waters. In these words they acknowledged the exclusive right of the British to certain fisheries, and solemnly withdrew any pretensions they had previously advanced to those fisheries. In the various documents that have been published by the British and Canadian Governments ever since the fishery question has been a matter of controversy, the whole issue is clearly set forth, and the position of Great Britain is shown to be incontrovertible. The word "bay" has always received a positive definition in all text-books, and is invariably spoken of "as a portion of sea enclosed within indents of coasts," and it is also established beyond reasonable doubt that the three marine miles from which Americans are excluded must be measured from the outer edge or chord of

the bay, or other indentation of the British coasts. In the Franconian case,* which came before the British Courts in 1876, the question involved was whether or not a foreigner commanding a foreign vessel could legally be convicted of manslaughter committed whilst sailing by the external coast of England, within three miles from the shore, in the prosecution of a voyage from one foreign port to another. The Court, by a majority of seven judges to six, held the conviction bad on the ground that the jurisdiction of the Common Law Courts extended only to offences committed within the realm, and that at Common Law such realm did not extend on the external coasts beyond low-water mark. None of the judges, however, doubted that Parliament had power to extend the laws of the realm to a zone of three miles around the outer coast, if it saw fit to do so. The Lord Chief Justice of England, by whose casting judgment the conviction was quashed, not only guarded himself expressly against being understood as throwing any doubt whatever upon the jurisdiction of the Courts over inland or territorial waters, but emphatically affirmed such jurisdiction. "If an offence was committed," he said, "in a bay, gulf, or estuary, *inter fauces terræ*, the Common Law would deal with it because the parts of the sea so circumstanced were held to be within the body of the adjacent county or counties." In another case, which was decided by the Judicial Committee of the Privy Council† in 1877, the question arose between two telegraph companies whether Conception Bay in Newfoundland (which is rather more than twenty miles wide at its mouth and runs inland between forty and fifty miles) was within British waters or a part of the high seas. One of the companies laid a cable and buoys within the bay at a distance of more than three miles from the shore, and the rival company contended that the former had infringed rights granted to them by the Legislature of Newfoundland. The Judicial Committee held that Conception Bay was within the territorial dominion of Great Britain. All bodies of water or inlets *inter fauces terræ*, being then clearly within the territorial jurisdiction of England and her dependencies, it follows that when the Americans by the Convention of 1818 explicitly renounced all liberty previously enjoyed to fish "on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions," they gave up any pretensions they may previously have had, and confined

* The Queen v. Keyn, L. R. 2 Ex. Div. 63.

† The Direct United States Cable Co. (Limited), Appellants, v. The Anglo-American Telegraph Co. (Limited) and other Respondents, L. R. App. Cases, vol. ii, 394.

themselves to the waters a league distant from those indents measured from headland to headland. The British Government, in their desire to afford every facility to the United States consistent with their sovereign rights and the interests of the people of British North America, have since 1845 thought it expedient to relax, in the case of the Bay of Fundy, the application of the rule to which they have generally adhered. They have permitted American fishermen to pursue their calling in any part of the bay, provided they should not approach, except in cases specified by the treaty of 1818, within three miles of the entrance of any bay on the coast of Nova Scotia or New Brunswick. While maintaining, as a matter of strict construction, that this large bay is rightfully claimed by Great Britain as a body of water within the meaning of the Convention of 1818, they have considered that in one respect this inlet could be treated exceptionally, inasmuch as there was some plausibility in the reasoning of the United States, that the headlands were not only sixty miles apart, but one of them was not British ; and that, as pointed out by Mr. Everett to Lord Aberdeen in 1844, "Owing to the peculiar configuration of the coasts of this arm of the sea there is a succession of bays indenting the shores both of Nova Scotia and New Brunswick, within any distance not less than three miles, from which American fishermen were necessarily excluded by holding the whole body of water to be in the British territorial limits." The same argument could not be used in the case of the Bay of Chaleurs or other important indents of the coasts, and under these circumstances, with a view of preventing international disputes in waters so close to the United States territory, the British Government have never pressed their undoubted legal right to exclude American fishermen from the bay in question.

The Imperial authorities have on many occasions strictly maintained the rights they possess under the law of nations. From 1818 to 1854 the British cruisers detailed by the Imperial and Colonial Governments for the protection of their fisheries captured and confiscated several American vessels that were found ranging at points varying from quite near the shore to a distance of upwards of ten miles from land, on the ground that they were within the headlands of bays. In 1854, after considerable negotiation for years, the two Governments arranged a Reciprocity Treaty which temporarily settled the increasing difficulties on the question. By this treaty the United States obtained free access to the fishing-grounds on the east coast of British North America, and certain natural products of these two countries, like fish, coal, flour, meal, lumber, and salt, were allowed to enter into each, free of duty. This arrangement was

of undoubted advantage to the United States and the provinces, from a purely commercial point of view. Not only did it settle for the moment an ever-present cause of irritation, but it opened a large and increasing market to the export trade of British North America, while the Americans were able to prosecute one of their great industries at a decided advantage, and at the same time obtain additional buyers for their flour, corn, meal, and manufactured goods. It is necessary, however, to observe that the maritime provinces never considered the commercial concessions made to them by the United States as an adequate compensation for the very valuable fisheries of British North America. In those days, indeed, the Americans, by their greater enterprise and the superiority of their vessels, practically beat the British American fisherman in their own waters, and derived advantages, it was claimed, beyond any granted by the United States. From an Imperial or national point of view, the Reciprocity Treaty had its dangers as long as the provinces had no bonds of union. It enticed thousands of the most enterprising youth of the country into the fishing fleet of New England—and many of the schooners of Gloucester and Marblehead are even yet manned by Nova Scotians—and made the commerce of the maritime provinces in the course of years very largely dependent on the United States. In those days the provinces were isolated from each other, and a commercial or political union between them seemed still far off. In the absence of such a union, the people were not animated by a national feeling, but some of them began to consider whether a closer connection with the United States was not among the probabilities of the future. Manufactures were brought in large quantities from the United States in return for the natural products sent them by the provinces, and there was no prospect of the growth of a native manufacturing industry to add to the wealth and give additional employment to the people, large numbers of whom were annually leaving the country for the manufacturing districts of New England. Whilst the treaty lasted the balance of trade with respect to manufactured goods amounted to £18,000,000 sterling in favour of the United States. The treaty came to an end in 1865 by the action of the Washington Government. Its repeal was notoriously hastened by the desire that generally prevailed among a large number of people in the United States to punish, if possible, the provinces for the sympathy which the majority of them were believed to have extended to the South during the War of Secession. A few public men, especially in New England, seem to have been led away by the belief that the treaty was indispensable to the commercial prosperity of the maritime provinces, and that they could be starved into annexation, or into eventually giving up

the fisheries on very advantageous terms to the Americans. The results have not been as the Americans anticipated. Happily for the national interests of British North America, its public men agreed at this critical juncture in their affairs to a political union, which has stimulated intercolonial trade, given a new direction to colonial commerce, and taught the people the necessity of self-reliance, and of promoting a national policy in all matters affecting their political and industrial interests.

In the meantime, while the people of the provinces were endeavouring to consolidate their Government, and establish a federation on a sound basis, they found themselves threatened with the fishery question in its irritating form. The Convention of 1818 was again in force, and the fishermen of New England were once more ranging in their waters. All the efforts of the Canadian Government to bring about a satisfactory commercial arrangement with the United States were entirely unsuccessful. The question then constantly pressed itself upon them, how best to meet the difficulty of maintaining their rights without bringing about any serious international complication. The correspondence between England and Canada, as it appears in the Canadian Blue-books from 1867 to 1871, is not very flattering to the national vanity of those Englishmen who believe there are times when a little firmness is necessary in the maintenance of undoubted Imperial rights. All the despatches of the British Government are in the direction of conciliating the United States in every way possible, until at last it was pointed out in one Canadian Minute of Council that "the course suggested (the freedom of the fisheries for another year) would certainly be regarded by the American people as an evidence of weakness on the part of Great Britain, and of an indisposition to maintain the rights of the colonists." The answers of the Canadian Government to the despatches from the Imperial authorities are distinguished throughout by a firm assertion of the rights and interests of Canada, and in yielding as they did on several occasions to the suggestions of the Colonial Secretary they proved the anxiety of Canadians not in any way to embarrass England at a time when the Alabama question had caused a feeling of deep irritation against her in the Northern States. Concession after concession was made to the United States, until at one time it did look, as Mr. Mitchell, the able Minister of Marine and Fisheries, pointed out to his colleagues, there was every danger that "the hesitation on the part of England to assert an undoubted national right would be misconstrued, and be made the ground for other and more serious exactions, until such a point is reached that neither country can recede from with honour." However, the Canadian Government reluctantly

acquiesced in the suggestion of her Majesty's Ministers at the very outset, and adopted the temporary expedient of issuing season licenses to American fishing vessels at a nominal tonnage rate, "so as formally to preserve the right of sovereignty without occasioning any dangerous complications such as were apprehended by the Imperial authorities." American fishermen were restrained at first to bays under ten geographical miles, and subsequently to those only under six miles in width—a concession entirely in accord with the demands of the United States before and since 1854. They required that three warnings should be given to American fishermen, and consequently rendered the licensing system eventually a nullity. During the four years this system remained in force it was systematically evaded, and at last became practically worthless, according as the Americans began to understand that the British authorities were very lax in executing it. In the first year of its existence, 354 licenses were taken out, but they dropped to 25 in 1869, though every one knew that the Canadian waters were largely frequented by American fishermen. The impression prevailed among the latter that her Majesty's Government, in their great anxiety to avoid anything of an irritating tendency in the existing temper of the American people towards Great Britain, arising out of the Alabama grievance, would not make any seizures; and, as a matter of fact, notwithstanding repeated violations, no captures were ever heard of. Vice-Admiral Wellesley, then in command of the North American fleet, considered it his duty to point out to the Secretary of the Admiralty that "as a consequence of the continued indulgence towards the Americans, very few colonial fishermen are engaged in fishing, owing to the almost prohibitory tariff imposed by the United States on fish imported in colonial vessels, and colonial fishermen therefore in considerable numbers man American vessels." The Government of Canada, led then as now by Sir John Macdonald, known the world over as a statesman of broad national views, felt called upon to state that they viewed

with very serious concern the effect upon our maritime population of such dependence upon American employers. It creates sympathy with foreign sentiments and institutions, and affords opportunities for instilling into the minds of our people ideas and expectations altogether inimical to British connection. There is actually presented to them the example of subjects of a republican power and citizens of a foreign State prosecuting their calling at the very doors and in the exclusive limits of British subjects in Canada, who are themselves shut out of the markets of that country by a prohibitive tariff adopted in the interest of their own fishermen, while ours cannot even enjoy their own exclusive privileges. The influence of these considerations cannot

be otherwise than seductive of the loyal attachment and personal enterprise of our seaboard population. It discourages the independent employment of Canadian fishing craft and provincial fishermen. It tempts our fishermen to catch and sell their fish clandestinely to owners of American vessels, who can afterwards market them in the United States, free of duty, as American-caught fish. This practice demoralizes our population, and accustoms them to violations of our own laws.

Finally, owing to the urgent representations of the Canadian Government, the Imperial authorities arranged with the Administration at Washington the appointment of a joint British and American Commission "to treat of and discuss the mode of settling the different questions which have arisen out of the fisheries, as well as those which affect the relations of the United States towards Her Majesty's possessions in North America." Though the chief object of this Commission, when first discussed, was to consider the fishery question, the Government of the United States succeeded in having its scope subsequently enlarged so as to include the Alabama controversy. Consequently the fishery question soon took an altogether secondary place, and the strong claims which the Canadians had against the Washington Government for the expenses and losses incurred by them through the Fenian invasions of 1866 and 1870 were entirely ignored by the High Commission. The history of this Commission is well known, and all that is necessary to say here is, that it looked very much for a while as if the fisheries of Canada were to be given up to the United States without adequate compensation. The American Commissioners, in accordance with the policy which the United States had steadily pursued towards Canada since 1865, refused to consider a new Reciprocity Treaty, and it was at last decided to admit the United States to the inshore sea fisheries of British North America, on condition that Canadian fish and fish-oil were admitted free of duty into the American market, and that commissioners be appointed to determine the amount of any compensation which in their opinion ought to be paid by the Government of the United States in return for the privileges accorded to their citizens under the treaty. It will be seen that the claim which the people of Canada had been making for years to have coasting privileges on the American shores were not yielded, if indeed they were ever seriously considered. But strong as were their doubts of the justice of the Treaty, regretful though they were that the whole question of the fisheries, especially as respects the three miles' limit, had not been for once and ever settled on a fair and equitable basis, the Canadians acknowledged the difficulties of the situation from an Imperial point of view, and determined to yield to the force of circumstances, with the hope

that their interests would be eventually guarded by the new Commission that was to consider the question of compensation. Their hopes were not disappointed by the decision of the Commission, which met at Halifax in the summer of 1877. The three Commissioners—M. Maurice Delfosse, Belgian Minister at Washington; Mr. E. H. Kellogg, and Sir A. T. Galt—gave a most patient hearing to the claims of the parties to the issue, and after considering all the evidence submitted to them, a majority decided to award the sum of 5,500,000 dols. in gold, to be paid by the Government of the United States to the Government of Great Britain, in accordance with the provisions of the Washington Treaty. Mr. Kellogg, however, on the part of the United States, dissented from the award, though it is impossible to read the Blue-book containing the evidence and arguments of counsel on both sides without coming to the honest conclusion that the Dominion made out a clear case, and that the sum in question was only fair compensation over and above the relatively small commercial advantages conceded to Canada by the terms of the Treaty of Washington. In all probability the Americans were surprised that for once in the history of treaties between themselves and Great Britain they were obliged to concede more than they intended when they proposed a Commission for the settlement of the question. The history of the Maine, Oregon, and San Juan boundaries, had taught them probably to believe that a little diplomatic ingenuity on their part would enable them to get the better of England and her great dependency in this matter. *Hinc illæ lachrymæ.*

However disappointed the Americans may have felt at the award, they had no other alternative open to them than to pay the money and carry out the provisions of the Washington Treaty. The arrangement was advantageous to both countries, since it set at rest a vexatious question and stimulated commercial intercourse between them. The Canadians were not surprised, however, to find that the American Government, in accordance with their past policy with respect to the fisheries, gave due notice of the repeal of the treaty after it had been in existence for twelve years. Consequently it expired in July 1885, and the Convention of 1818 should have once more immediately governed the relations of the two nations. It was not thought advisable, however, by either the Canadian or the Imperial Government to exclude American fishermen at once from the fisheries, as many of them were already in Canadian waters when the treaty came to an end, and had they been seized without full notice having been previously given them, a serious feeling might have arisen between the countries immediately interested. After considerable correspondence

between the respective Governments of London, Ottawa, and Washington, it was agreed that steps should be taken at the earliest date possible for the appointment of a joint Commission "charged with the consideration and settlement, upon a just, equitable, and honourable basis, of the entire question of the fishing rights of the two Governments and their respective citizens on the coasts of the United States and of British North America." Accordingly, during the past season, American fishermen freely frequented the waters of the Dominion, while Canadian fishermen had not only to suffer this foreign competition at their own doors, but found the market heretofore open to them in the United States crippled by high import duties at a time when the price of this staple article of commerce was exceedingly low, and the demand in the West Indies had fallen off on account of the depression existing in the sugar industry of those islands. However, Canada had no other course open to her in this perplexing dilemma, involving such important international considerations, than to agree to the temporary arrangement in question, with the hope that the difficulty would be satisfactorily settled in the way proposed. It is pleasant to find that President Cleveland is evidently desirous of arriving at a just and honourable solution of the question as soon as possible. In his message to Congress in December last he expresses his opinion that, "in the interest of good neighbourhood and of the commercial intercourse of adjacent communities, the question of the North American fisheries is one of large importance." After recommending that Congress provide for the appointment of a Commission, he proceeds to say: "The fishing interests being intimately related to other general questions dependent upon contiguity, consideration thereof, in all their equities, might also properly come within the province of such a Commission, and the fullest latitude of expression on both sides should be permitted."

We have now given an historical review of this question since it became a matter of controversy between Great Britain and the United States. It will be seen that throughout all the negotiations on the fisheries the public men of Canada have shown a fair and conciliatory disposition, which ought to be fully appreciated by their neighbours, now that happily there exists a far better understanding on all questions than was the case up to 1871, when the people of the United States were not so favourably disposed towards Canadians and Englishmen generally. It is obviously inconvenient on all sides that these international issues should be of constant occurrence when it has always been possible to settle them for a long term of years, if not for all time. The Canadians have always felt—and Presi-

dent Cleveland evidently feels the same way—that the fishery question is intimately connected with the commercial relations of the two countries, and that it should be arranged in the shape of a new Reciprocity Treaty like that of 1854. When their efforts to bring about such a business arrangement failed in 1865, and again in 1871 when the Washington Treaty was concluded, they felt compelled to assume a dignified attitude and make no more approaches to the United States on the subject, though they placed a clause in their Customs Act which permits the Canadian Government at any time to modify or remove the duties on certain American products whenever their neighbours pursue a similar policy towards the Dominion. They have been always ready to meet the people of the United States “in the interest of good neighbourhood;” and it is now for Congress to show how far it is prepared to go in the direction indicated in the friendly language of Mr. Cleveland. Canada is curious to see whether there is to be at last a new policy with respect to herself—a policy of liberality and justice worthy of a great people.

Canadians cannot well exaggerate the importance of their fisheries from a national as well as commercial point of view. Whilst the fisheries of the United States on the New England coasts have become relatively unimportant, those of British North America still give employment to a large number of people, and are the foundations of the wealth and prosperity of the maritime provinces. They are not a declining, but an increasing branch of industry and commerce. In 1867, when the provinces were confederated, the value of the total product of the lake, river, and sea fisheries of Canada amounted to only a little over £2,000,000 sterling in round numbers, but in 1884 it reached the following figures:—

Nova Scotia	£1,800,000
New Brunswick	800,000
Quebec	350,000
British Columbia	300,000
Ontario	250,000
P. E. Island	210,000
Total for the Dominion	£3,710,000
Add estimated product of Newfoundland	2,000,000
Total for British North America	£5,710,000

Newfoundland, however, does not stand in the same position as the Dominion with respect to the Americans. Her fisheries are chiefly of cod, pursued in the Grand and other banks on

which English, French, and Americans have equal rights of fishing. When the question of compensation to all the provinces came before the Commission in 1877, it was shown that the Americans derived decided advantages from the privileges conceded to them on the coasts of the island, of procuring bait and supplies, refitting, drying, and transshipping their cargoes, while their vessels contrive to prosecute the fisheries the whole season. It is, however, as we have already shown, within three miles of the bays and coasts of the maritime provinces of the Dominion that the Americans prosecute the mackerel, herring, and other fisheries, to which they attach so much value. The annual value of the Canadian catch of mackerel is now about £450,000 a year, and of the herring, £600,000. It is impossible, from American statistical returns, to obtain the exact value of the fish caught in Canadian waters by American fishermen, but if any one has the patience to go through the evidence adduced before the Commission of 1877, he will see that there has been for half a century a large number of American vessels annually distributed off the coasts of the Dominion. Between 400 and 500 vessels annually pass through the Gut of Canseau on their way to the mackerel fishery of the gulf, and it may be estimated that altogether from 700 to 800 vessels now yearly compete with the Canadians for their fisheries. Every schooner engaged in the mackerel fishery takes on an average 300 barrels of that fish alone, worth about £2 5s. each. The facilities enjoyed by the Americans of landing and transshipping their fish to the United States, as it may suit their convenience, under the treaties heretofore in force, have enabled them to compete with the Canadians on the most favourable terms. Not only are the Canadians forced to meet this formidable competition, but they find their fisheries injuriously affected by the appliances used by the Americans in prosecuting their vocation. One of the Canadian inspectors, in charge of one of the most important maritime districts, reports that "the practice of seine fishing is monopolized almost entirely by the fishermen of the United States, and is strongly protested against by the resident fishermen on the coast." By this method the fish are culled, and all those too small to furnish the required grade are thrown dead into the sea; and consequently there is an enormous waste of young fish every year, and the fishing-grounds are seriously polluted. The same officer also bears testimony to the vigorous prosecution of the Canadian fisheries by the Americans, and lets us into the secret of the difficulty of obtaining accurate statistics of the American catch in the waters of the Dominion :

The seining by the fishermen of the United States, which proved to them so prolific of rich fares, was prosecuted almost entirely

inside of the headlands and within the bays of the coast—*i.e.*, the three miles' limits; yet it is a fact capable of proof that they had private instructions to report, on their arrival in their own ports, that their cargoes were entirely taken outside of the three miles' limit.

There is every reason to believe that the fisheries of Canada are at the present time just as valuable to the United States as they were in 1877, when it was decided to grant over a million pounds sterling to Canada as compensation due to her beyond any advantages derived from the removal of the duty on the products of her sea fisheries. The Canadian fish annually imported into Boston and other ports of the United States is indispensable as an article of food and commerce, and must be purchased by the Americans as long as they cannot supply their wants from their own waters. It is quite safe to say that Canada is fully justified in demanding the free admission into the markets of the United States of her coal, salt, lumber, fish, and agricultural products, in return for giving the Americans free access to her fisheries and reciprocity of trade in the articles just mentioned. Indeed, it is well known that the lumber trade with the United States has not diminished in consequence of the heavy import duty to which it is subject, but must increase in importance whilst the forests of the West become less valuable and unable to supply the demands made upon them from year to year as the country increases in population and wealth. In the case of coal the removal of the present duty will be an advantage to the maritime provinces, but looking at the bulk of exports of Canada to the United States, it is clear that they are of prime necessity to the people of the latter country, and a new Reciprocity Treaty under existing circumstances will lessen prices and conduce largely to the benefit of American consumers. But Canadians have always recognized the fact that a treaty based on equitable principles will be commercially advantageous to both countries, and clearly "in the interest of good neighbourhood." Canada, it must be also remembered, occupies a position very different from the one she held from 1854 to 1865, when the provinces were politically and commercially isolated from each other, and were annually flooded by American manufactures. Now a large interprovincial trade has grown up since 1867, manufactures have been established, a national spirit of self-reliance has been created, and the Dominion can enter into a new Reciprocity Treaty without any fear of the ulterior consequences upon the people in any section. Canadians are now prosecuting the fisheries with great vigour, and with the swift vessels and better appliances they are now employing they need not so much fear competition in their own waters as in old times. Animated by the new spirit of

national unity that is the natural outcome of confederation, and fully conscious that their existence or prosperity does not depend on the commercial caprice of any country, they can survey the whole situation with confidence and equanimity. They feel at the same time that, with the friendly feeling that now exists between England, the United States, and Canada, the prospects of a new treaty and of the settlement of the whole Fishery question ought to be favourable. It is true there are signs of opposition to a Fishery Commission shown in New England ; but they are of a purely selfish nature, and not based on broad national considerations, and they should not prevail in the face of the statesmanlike action already taken by President Cleveland and Secretary Bayard.

Of the national importance of the fisheries there is abundant evidence. It may be said of the maritime provinces of the Dominion, as of the wealthy city of Amsterdam, that the origin of their prosperity must be sought in the fisheries. They form the basis of a great commerce, and of a large and increasing marine, only exceeded in aggregate tonnage by three nations of the world. At the present time Canada exports fish to the annual value of £1,800,000 sterling, of which the United States take £800,000, and the West Indies and South American countries about £750,000. Newfoundland has an export trade to about the same amount, but her commerce is chiefly with Spain, Portugal, and South America. The prosecution of the fisheries and their carriage to foreign countries have served to create a hardy and industrious class of men, who possess all the qualities of first-rate sailors. The following tabular statement will show the importance that this industry has attained in each of those provinces of Canada largely engaged in maritime pursuits:—

Decked vessels.		Boats.		Men.
Nova Scotia	796	7,528	30,000	
New Brunswick	214	4,440	9,000	
Prince Edward Island	25	2,704	5,500	
Quebec	146	6,761	11,000	
Total	1,181	21,433	55,500	

The figures for Newfoundland are not available, but we may add 36,000 as probably the number of men engaged in all the fisheries in that island. The carriage of the products of the sea gives employment to a large proportion of the shipping of British North America. In 1867 the Dominion of Canada owned 5,882 vessels, with an aggregate tonnage of 800,000 tons, and valued at £5,000,000 sterling. The construction of steam and iron vessels of recent years has necessarily lessened the demand for wooden

craft, but nevertheless the marine of Canada shows an increase during the past eighteen years. In 1884 the total number of sailing vessels, steamers, and barges registered in the Dominion was 7,254, measuring 1,253,747 tons, and valued at over £7,500,000. Even in that dull year Canada built 387 vessels, of an aggregate tonnage of 72,411 tons, and of the value of £700,000. The number of steamers is steadily on the increase—the aggregate tonnage of this class having been 207,669 tons in 1884. Canada consequently owns a commercial marine of which the whole tonnage is exceeded only by that of Great Britain, the United States, and Norway. It may be estimated that Canada has now at least 75,000 men regularly employed in her fisheries and carrying trade. In every port of the world, at some time or other in the course of the year, we can see Canadian sailors and Canadian ships.*

The foregoing figures show the importance of the fisheries as an element of national wealth and strength. In the defences of the Dominion the seventy-five thousand men who sail the vessels and till the deep-sea pastures of Canada must perform an active part. Here exists a Naval Reserve from which the Empire could draw at need in a great Imperial crisis. In an able essay, published by Captain Colomb, R.N., some years ago, he referred at length to this very subject, and showed how the resources of all parts of the Empire can be efficiently combined and organized so as to render each and all almost impregnable. He has shown that the main object of the naval organization of the Empire should consist in the maintenance of its communications by sea, and that the coaling stations of Great Britain abroad are the principal strategical positions which it is essential to guard. He argued that this object will be best attained by the maintenance of an adequate sea-going fleet, charged with two great defensive functions—one to keep the enemy in his own ports, and the other to keep open the great sea routes to and from the heart of the Empire. No doubt the time must come when the whole question of the defence of the Empire will require the earnest consideration of Imperial and Colonial statesmen. If the grand

* I see to every wind unfurled
The flag that bears the maple wreath ;
Thy swift keels furrow round the world,
Its blood-red folds beneath.
Thy swift keels cleave the farthest seas ;
Thy white sails swell with alien gales ;
To stream on each remotest breeze,
The black smoke of thy pipes exhales.¹

¹ "Canada : A Poem." By T. G. Roberts. *The Century Magazine*, January 1886.

scheme of Imperial Federation which is now the dream of political enthusiasts should ever reach the arena of practical discussion, the question of defence will be one of the first subjects of deliberation, but if that scheme in its entirety should prove impracticable, it ought at least to be the patriotic aim of the public men of England and her semi-independent colonies to unite for common commercial and defensive purposes. It is quite clear that the old times, when England took part in aggressive wars, as in the days of Louis Quatorze and Napoleon I., are over, and that her policy will be henceforth to confine herself to the protection of her widely extended dominions. A policy of defence that will combine all the resources of her dependencies is one calculated to maintain her prestige and prevent the disintegration of her vast Empire. The triumphs of steam and electricity are effectually surmounting the difficulties of distance, and should render more practicable what some persons persist in believing to be mere visions of a united Empire. In any plan of Imperial defence Canada must henceforth perform an important part. On her Atlantic and Pacific coasts are the finest harbours of the world, and enormous deposits of bituminous coal available for steam purposes. Halifax is a strongly fortified port, with a large dockyard; and at Louisbourg—now desolate, but once a famous fortress of the French—could well be established another important station for a naval squadron. Both at these places and in British Columbia can be formed those coaling stations which, as Captain Colomb has pointed out, are essential as strategical positions. The present Governor-General of Canada in a recent speech referred to the important works that are now in course of construction on the Pacific coast for purposes of defence.

You have here at Esquimalt (he said) a naval station likely to become one of the greatest and most important strongholds of the Empire. You have a coal supply sufficient for all the navies of the world. You have a line of railway which is ready to bring that coal up to the harbour of Esquimalt. You will shortly have a graving-dock capable of accommodating all but one or two of her Majesty's largest ships. You have, in short, all the conditions requisite for what I believe is spoken of as a *place d'armes*; but until now that *place d'armes* has been inaccessible except by sea. We shall henceforth be able to bring supplies, stores, and material of war, by an alternative route, direct, expeditious, and lying for more than half its way over British territory."

An astute statesman, the Marquis of Lansdowne, fully appreciates the Imperial importance of the Canadian Pacific Railway as a means of keeping open the communications between

England and her dependencies in the East, and of strengthening the defences of the Empire at large. Possessing as she does the great steam fleet of the world, and the power of increasing it to still larger proportions, she can always maintain a steady and secure communication with China, Japan, Australia, and even with India, and all other countries in which she has important interests at stake. From her depôts at Halifax, or other places on the Atlantic coast of the Dominion, she can in four days reach the shores of the Pacific, and supply a fleet ordered to protect her interests in the East, should they ever be threatened by Russia or any other Power. It is well known that Russia is creeping down the coast of Manchuria to the borders of the Corea, and has already taken possession of the island of Saghalien. Mr. Laurence Oliphant, in a recent issue of *Blackwood's Magazine*, has shown that she has had her eyes for years on Tsusima, which occupies a commanding position in the straits separating Corea from Japan. Whilst preserving Bladivostock, at the extreme southern corner of the Russian Asiatic coast, as the base of all serious operations, she is likely sooner or later to seize Tsusima, or other available spot in those Eastern waters, and "fortify it as a marine station, well armed and provisioned, whence her fleets can issue at all seasons, and prey upon our commerce and bombard our colonies." Should ever a great struggle for the supremacy in the East occur between England and Russia—and there are many keen students of Russian policy and history who believe it is inevitable in the course of time—the ports of Canada and her trans-continental line of railway must be found invaluable auxiliaries in supporting the honour and dignity of England. The fishermen and sailors of the Dominion must prove an element of great strength in the maintenance of the line of communications with England and those countries with which she is politically or commercially identified. They can man the vessels necessary to protect our ports, and otherwise assist in the naval defences of the Empire. A thousand stalwart fishermen from Nova Scotia would aid materially in the defence of British Columbia or any other section of Canada.

Looking then at the maritime industries of Canada from an Imperial as well as a purely commercial standpoint, we cannot fail to see how intimately connected they are with the security of the Empire. We all know that no country can be truly great that has not a seaboard and does not follow maritime pursuits. Spain sank low in the scale of nations as her maritime power declined with the loss of her great colonies. The prosperity of Italy has increased with the growth of her commerce and shipping, and she need no longer lament the palmy days of Genoa

and Venice. We all know why St. Petersburg was built on a marsh ; and the history of this century is replete with the evidence of the desire of Russia to establish herself within the Golden Horn. France has fed her navy from the hardy Bretons and Normans who have served a rude apprenticeship on the Banks of Newfoundland. Canada, as yet with a population of about five million souls, already possesses a marine greater than that of Russia, Germany, Italy, or France. Prosperous as may be hereafter her commerce in manufactures or in agricultural products, it is on her rich fisheries must always rest in a large measure her maritime greatness. These fisheries must in the nature of things continue to be the most prolific in the world. The icy currents that come from the North bring with them a vast collection of minute organisms, which form the food of the myriads of fish that annually frequent the waters of British North America. The industries that depend on the products of these waters are expanding with the increase of capital and enterprise, and there is no limit apparently to their influence on the prosperity of the provinces by the sea, and indeed of the whole Dominion. As long as the fisheries of Canada are prosecuted with vigour, they must form no inconsiderable element of the wealth of the country, and at the same time continue to give employment to a large class of hardy men, whose courage and endurance will be found invaluable in the defence of the Empire, with which the people of Canada hope always to remain connected.

